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Offered: 4/9/76  
Today's Supplemental  
Calendar

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 775 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unlawful absence from custody or  
7 confinement."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 11.30.090 is repealed and re-enacted to read:

10 Sec. 11.30.090. ESCAPE. (a) A person commits an escape if without  
11 lawful authority he

12 (1) wilfully removes himself from official detention; or

13 (2) commits an unlawful evasion under sec. 93 of this chapter  
14 and leaves or attempts to leave the state.

15 (b) An offense charged under (a) of this section is punishable as  
16 an escape in the first degree if

17 (1) the official detention is on a charge of a felony;

18 (2) the official detention is for extradition; or

19 (3) the person, during the escape or at any time before his  
20 being restored to official detention, has in his possession a deadly  
21 weapon.

22 (c) An attempt to escape under (a)(1) of this section which under  
23 (b)(1), (2) or (3) of this section is an escape in the first degree is  
24 punishable as an escape in the second degree.

25 (d) Any other escape or attempted escape is punishable as an  
26 escape in the third degree.

27 \* Sec. 2. AS 11.30 is amended by adding new sections to read:

28 Sec. 11.30.093. UNLAWFUL EVASION. (a) A person commits an  
29 unlawful evasion if he wilfully fails to return to official detention, as

1 defined in sec. 100 of this chapter, following temporary leave granted  
2 for a specific purpose or limited period including but not limited to  
3 privileges granted under AS 33.30.150, 33.30.250 or 33.30.260.

4 (b) An offense charged under (a) of this section is punishable as  
5 an unlawful evasion in the first degree if the official detention is on  
6 a charge of a felony.

7 (c) An offense charged under (a) of this section is punishable in  
8 the same manner as an escape in the first degree if the person during  
9 the time of unlawful evasion or at any time before his being restored to  
10 official detention has in his possession a deadly weapon.

11 (d) Any other offense under this section is punishable as an  
12 unlawful evasion in the second degree.

13 Sec. 11.30.095. PENALTIES FOR ESCAPE AND UNLAWFUL EVASION. (a) A  
14 person convicted of escape in the first degree is punishable by imprison-  
15 ment for not less than one year nor more than five years.

16 (b) A person who is convicted of escape in the second degree is  
17 punishable by imprisonment for not less than six months nor more than  
18 two years.

19 (c) A person who is convicted of escape in the third degree is  
20 punishable by imprisonment for not less than three months nor more than  
21 one year.

22 (d) A person who is convicted of unlawful evasion in the first  
23 degree is punishable by imprisonment for not less than three months  
24 nor more than one year.

25 (e) A person who is convicted of unlawful evasion in the second  
26 degree is punishable by imprisonment for not less than 30 days nor  
27 more than one year.

28 (f) Suspensions of imposition or execution of sentence or grant-  
29 ing of parole shall be governed by the following considerations:

1 (1) when satisfied that the ends of justice and the best  
2 interests of the public as well as the defendant will be served, the  
3 court may suspend the imposition or execution of a portion of the sen-  
4 tence greater than the minimum sentence authorized under this section,  
5 and place the defendant on probation.

6 (2) execution of sentence may not be suspended nor may  
7 probation or parole be granted until the minimum imprisonment provided  
8 under this section has been served, nor may imposition of sentence be  
9 suspended, except upon the condition that the defendant be imprisoned  
10 for no less than the minimum period provided under this section, nor  
11 may the minimum penalty provided for in this section be reduced under AS  
12 11.05.150, except upon a finding by the court that the escape or evasion  
13 was for the purpose of avoiding a clear and present danger of physical  
14 abuse or cruel and unusual conditions caused either wilfully or by  
15 neglect.

16 (g) Terms of imprisonment required under this section are consecu-  
17 tive to sentences then existing or which may be imposed pursuant to the  
18 official detention from which the person has escaped.

19 (h) When an offender has escaped or has committed an unlawful  
20 evasion and voluntarily surrenders himself to a peace officer or em-  
21 ployee of the division of corrections, under circumstances when there is  
22 no imminent likelihood of his being apprehended, (f)(2) of this section  
23 is inapplicable.

24 \* Sec. 3. AS 11.30.100 is repealed and re-enacted to read:

25 Sec. 11.30.100. DEFINITIONS RELATING TO ESCAPE AND UNLAWFUL DETEN-  
26 TION. As used in secs. 90 - 95 of this chapter, unless the context  
27 otherwise requires,

28 (1) "cruel and unusual conditions" mean those conditions  
29 evidencing a shocking deviation from the conditions commonly acceptable

1 for official detention;

2 (2) "official detention" means arrest, custody following  
3 surrender in lieu of arrest, detention in any facility for custody of  
4 persons under charge or conviction of crime or alleged or to be  
5 delinquent, detention for extradition or deportation or any other deten-  
6 tion for law enforcement purposes; but "official detention" does not  
7 include supervision on probation or parole, or constraint incidental to  
8 release on bail.

9 \* Sec. 4. AS 33.30.150 is amended to read:

10 Sec. 33.30.150. VISITATION PRIVILEGES. An honor prisoner with good  
11 behavior serving a sentence of one year or more may be permitted as a  
12 privilege and not as a right to visit with his family at a place other  
13 than his place of confinement and at his own expense for a period not  
14 exceeding one week nor more frequently than once each six months  
15 under rules and regulations adopted by the commissioner and in his sole  
16 discretion. The wilful failure of a prisoner to return to the place  
17 of confinement not later than the expiration of a period during which  
18 he is authorized to be away from the place of confinement under this  
19 section is an unlawful evasion under AS 11.30.093.

20 \* Sec. 5. AS 33.30.250(f) is amended to read:

21 (f) The wilful failure of a prisoner to return to the place of  
22 confinement not later than the expiration of any period during which he  
23 is authorized to be away from the place of confinement under this sec-  
24 tion, is an unlawful evasion under AS 11.30.093 [ESCAPE FROM THE PLACE  
25 OF CONFINEMENT AND IS PUNISHABLE UNDER THE LAWS RELATING TO ESCAPE].

26 \* Sec. 6. AS 33.30.260 is amended to read:

27 Sec. 33.30.260. REHABILITATION FURLOUGHS. The commissioner may  
28 authorize a prisoner to participate in educational, training, medical,  
29 psychiatric, or other rehabilitation programs approved by the commis-

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sioner. When the prisoner is not participating in a rehabilitation program, he shall be confined in the jail unless the commissioner directs otherwise. If the prisoner violates the conditions established for his conduct or custody, the commissioner may order the balance of the prisoner's sentence to be spent in actual confinement. The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section, is an unlawful evasion under AS 11.30.093 [ESCAPE FROM THE PLACE OF CONFINEMENT AND IS PUNISHABLE UNDER THE LAWS RELATING TO ESCAPE].

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